

Court dictates school funding? What's next?

By MIKE PADDEN, MATT MANWELLER AND TERRY NEALEY

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There is a clear principle outlined in the Washington Constitution, based on our federal model, called the separation of powers. This is the system of checks and balances in our government structure that maintains a balance of power and separates responsibilities between the three branches – legislative, judicial and executive.

Each branch has separate functions and may not commandeer the duties and authority of another branch.

Funding K-12 education is a constitutional mandate directed specifically to the Legislature, not the state Supreme Court. No matter how much we all support education, all three branches of government must exercise decisions in a manner that respects the law. However, the court ignored the separation of powers in its January 2012 ruling on *McCleary v. Washington*.

That decision directed state government to increase expenditures for education. The Legislature responded in good faith by increasing education funding by more than \$1 billion. Yet the court felt that effort was insufficient.

In a ruling issued Jan. 9, the court (with dissent) continued to overstep its constitutional boundaries, demanding that the Legislature submit, by April 30, a year-by-year plan for complying with the *McCleary* decision in the next four years. Should that deadline be missed, the justices implied lawmakers could find themselves with an unprecedented choice: allocate a specified amount of additional money into the school system or face a charge of contempt.

Contempt? If anyone is acting with contempt at our Capitol, it would seem to be the eight justices who are ignoring the constitutional separation of powers between branches of government.

The justices apparently want to make themselves the budgeting and funding authority for the state. Judge, jury and executioner – things just don't work that way, and with good reason.

Given our professional backgrounds, we have much respect for and more than a passing knowledge of the judicial branch. We understand the state's top justices have a great deal of latitude and discretion, but this time all except Justice Jim Johnson overstepped.

Let us also be clear: Our disagreement with the court has nothing to do with the issue of education funding itself. We solidly support upholding our state's paramount duty to make ample provision for the education of Washington's children, and our records back this statement. Our disagreement is with the court trying to legislate.

Regardless of what we or they believe about what qualifies as “ample provision” for basic education, it’s outrageous for the eight justices to think they can and should order the Legislature to make funding decisions.

We have to believe the justices would be equally outraged if the Legislature passed a law requiring them to arrive at a specific ruling on a particular case.

In his strongly worded dissent, Justice Johnson wrote how the Legislature – not any court – is “the body capable of gathering relevant information regarding competing state budget interests and funding each according to available resources provided from the economy and tax resources.

“Given this court’s total lack of record concerning such other budgetary matters,” his dissent continues, “it is improper that a court would retain jurisdiction in this case to control this one portion. Budgetary matters are the province of the Legislature, which is equipped with mechanisms for gathering public input through elected representation and may even raise or lower funding sources.”

It’s one thing for the justices to make their preference known and another for them to effectively set the stage for a constitutional showdown.

Should it come to the latter, we believe the constitution is squarely on the Legislature’s side, given how the first line of Article IX, Section 2 assigns the task of defining and funding education in our state: “The legislature shall provide for a general and uniform system of public schools.”

As Johnson noted, those words are so clear “that one need not be a lawyer to understand.”

State Sen. Mike Padden, R-Spokane Valley, is a former longtime district court judge; state Rep. Matt Manweller, R-Ellensburg, is an adjunct professor of law at Central Washington University; and state Rep. Terry Nealey, R-Dayton, is a former Columbia County prosecutor.

Read more here: <http://www.thenewstribune.com/2014/01/24/3009271/court-dictates-school-funding.html#storylink=cpy>